



7019 01/30/06 \$31,400.00

OFFICE OF  
INSURANCE COMMISSIONER

In the Matter of	)	
	)	ORDER NO. D05-434
REGENCE BLUESHIELD and ASURIS	)	
NORTHWEST HEALTH,	)	
Domestic Health Care Service	)	
Contractors	)	CONSENT AND ORDER
And	)	IMPOSING A FINE
REGENCECARE,	)	
A Domestic HMO	)	

COMES NOW the Insurance Commissioner of the State of Washington, pursuant to the authority set forth in RCW 48.02.080 and RCW 48.44.060 and -.166, and having reviewed the official records and files of the Office of the Insurance Commissioner, makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Regence Blueshield ("Regence"), Asuris Northwest Health ("Asuris"), and RegenceCare (collectively, "The Companies") each hold a Washington Certificate of Authority. Regence and Asuris are authorized Health Care Service Contractors. RegenceCare is an authorized Health Maintenance Organization. Each is domiciled in Washington.
2. The Office of the Insurance Commissioner ("OIC") conducted a market conduct examination of The Companies for the time period July 1, 2001, through December 31, 2002. The examination included areas of company operations and management, advertising, claims, underwriting, member contracts and handbooks, and provider contracts / activity.
3. The report on the market conduct examination of The Companies was adopted by the Insurance Commissioner by Order Adopting Report of Market Conduct Examination No. G04-79 entered on December 10, 2004, which order is final. This report contains the violations enumerated below.
4. WAC 284-50-200 requires each insurer to maintain a complete file containing every advertisement of its individual policies and typical advertisements of its blanket, franchise, and group policies for at least four years. Eight paper and ten

CD-rom advertising items were found which were not included in the Companies' advertising file.

5. RCW 48.43.093 requires all plans to cover emergency services necessary to screen and stabilize a covered person if a prudent layperson acting reasonably would have believed that an emergency condition existed. The Companies' contracts substitute the Companies' own definition of emergency and the company's own judgment of when emergency services are needed, rather than the "prudent layperson" standard, to determine coverage.
6. Under WAC 284-51-050(1)(a), all health contracts which provide for coordination of benefits ("COB") must contain a provision stating what expenses are to be recognized under the COB provision as an allowable expense, and must include the verbatim statutory definition of "allowable expense". None of the Companies' contracts contain this definition. Although the OIC instructed the Companies to correct this deficiency in 2002, this correction has not been made.
7. Provider contract forms for HCSC's and HMO's must be filed with the OIC prior to use. RCW 48.44.070 (HCSC's); 48.46.243(3) (HMO's); WAC 284-43-330 (all health carriers). Twenty-three of thirty-eight HCSC provider contract forms and eight of the eleven HMO provider contract forms used by the Companies (63%) had not been filed with the OIC prior to use.
8. WAC 284-43-250(4) requires all health carriers to include in enrollee handbooks a written explanation of a woman's right to directly access women's health care practitioners for covered women's health care services and include information regarding any limitations. RCW 48.42.100 makes these requirements applicable to the Companies. Seventeen of the sixty-one contracts and handbooks reviewed (about 28%) did not contain any reference to women's direct access benefits.
9. RCW 48.44.020(4) requires every contract between a HCSC and a provider to state that, in the event the HCSC fails to pay for health care services as provided in the contract, the enrollee shall not be liable for sums owed by the HCSC. RCW 48.46.243(1) provides that HMO contracts contain the same provision, and subsection (4) of that statute prohibits actions against enrollees for sums owed by HMO's. WAC 284-43-320(2) sets forth the specific "hold harmless" language that must be included in such contracts. Four of forty-nine (8.2%) of the Companies' provider contracts did not contain this required language.

### CONCLUSIONS OF LAW

1. RCW 48.05.185 authorizes the Insurance Commissioner to impose a fine in lieu of the suspension or revocation of a company's license.
2. The Companies committed the following violations of Washington law:
  - a. The Companies' failure to include eighteen advertising items in their advertising file violated WAC 284-50-200.

- b. The Companies' issuance of contracts which purport to use a different standard than the "prudent layperson" standard to determine coverage for emergency care violated RCW 48.43.093.
- c. The Companies' issuance of contracts which lack the required definition of "allowable expense", particularly in light of the OIC's previous instruction to the Companies to include this language, violated WAC 284-51-050(1)(a).
- d. The Companies' use of provider contract forms which had not been previously filed with the OIC violated RCW 48.44.070 (HCSC's); 48.46.243(3) (HMO's); and WAC 284-43-330 (all health carriers).
- e. The Companies' issuance of contracts and handbooks which did not contain any reference to women's direct access benefits violated WAC 284-43-250(4).
- f. The Companies' issuance of provider contracts that lacked the required "hold harmless" provision violated RCW 48.44.020(4) (HCSC's) and RCW 48.46.243(1) (HMO's), and WAC 284-43-320(2) (both).

### **CONSENT TO ORDER**

NOW, THEREFORE, Regence Blueshield, Asuris Northwest Health, and RegenceCare consent to the following in consideration of each company's desire to resolve this matter without further administrative or judicial proceedings, and the Insurance Commissioner consents to settle the matter in consideration of the companies' fine on such terms and conditions as are set forth below:

1. Regence Blueshield, Asuris Northwest Health, and RegenceCare each consent to the foregoing Findings of Fact and Conclusions of Law as they pertain to these facts, consent to the entry of the Order and waive further administrative or judicial challenge to the OIC's actions related to the subject matter of the Order;

2. The OIC will impose a fine of \$51,400 (Fifty-One Thousand, Four-Hundred Dollars), and suspend \$20,000 (Twenty Thousand Dollars) of that, on the conditions that:

a. Within thirty days of the entry of this Order, The Companies pay Thirty-One Thousand, Four Hundred Dollars (\$31,400);

b. None of the Companies commit any further violations of the statutes and regulations that are the subject of this order for a period of two years from the time this order is entered. The OIC will not impose the balance of this fine nor take action against the Certificates of Authority of Regence Blueshield, Asuris Northwest Health, or RegenceCare should they commit isolated, de minimis violations of the statutes and regulations that are the subject of this order during the suspense period, as determined by the OIC. Each of the Companies commits to rectifying such violations promptly once they are discovered.

c. The Companies understand and agree that any future failure to comply with the statutes which are the subject of this Order constitutes grounds for further penalties which may be imposed in direct response to that further violation, in addition to the imposition of the suspended portion of the fine; and

3. Failure to pay the fine set forth in paragraph two shall constitute grounds for the revocation of the Certificates of Authority of each company.

EXECUTED this 6 day of January, 2008.

REGENCE BLUESHIELD

By: Mary M Williams

Title: President

ASURIS NORTHWEST HEALTH

By: Mary M Williams

Title: President

REGENCECARE

By: Mary M Williams

Title: President

#### ORDER OF THE INSURANCE COMMISSIONER

NOW, THEREFORE, pursuant to the foregoing Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner hereby orders as follows:

1. Regence Blueshield, Asuris Northwest Health, and RegenceCare, collectively, are ordered to pay a fine in the amount of Fifty-One Thousand, Four-Hundred dollars (\$51,400), of which Twenty Thousand Dollars (\$20,000) is suspended on the conditions set forth and agreed to above.
2. The payment liability of the companies under this Order is joint and several.
3. Thirty-One Thousand, Four-Hundred Dollars (\$31,400) must be paid in full within thirty days of the date of entry of this order.

4. The Companies' failure to pay the fine within the time limit set forth above shall result in the revocation of the Companies' Certificates of Authority, and in the recovery of the fine through a civil action brought on behalf of the Commissioner by the Attorney General.

ENTERED AT TUMWATER, WASHINGTON this 12<sup>th</sup> day of January,  
2008.

Mike Kreidler  
Washington State Insurance Commissioner

By: Andrea L. Philhower  
Andrea L. Philhower  
Staff Attorney, Legal Affairs Division